

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 1569 of 1990****For Approval and Signature:****HONOURABLE MR.JUSTICE R.S.GARG**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil
judge ?

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AHMEDABAD MUNI. TRANSPORT SERVICE - Appellant(s)**Versus****YASMINBANU G PATANI & 4 - Defendant(s)**

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Appearance :

MR KARIAL FOR TANNA ASSOCIATES for Appellant,
NONE for the Respondents.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG**Date : 16/08/2007****ORAL JUDGMENT**

1. Mr.Karial, learned counsel for the appellant. None for the respondents, though notice upon the respondent No.2 is served and the name of Mr.H.R. Momin, learned counsel is shown for the respondent Nos.1, and 3 to 5.

2. The appellant, being aggrieved by the award

dtd.30/9/1988 passed by the Motor Accident Claim Tribunal (Main), Ahmedabad in Motor Accident Claim Petition No.183 of 1986, is before this Court with a submission that the award made by the tribunal is patently illegal.

3. The award has been challenged on merits on the ground of liability so also on the ground of quantum.
4. From the evidence available on the records, it would appear that the driver was acquitted in the Criminal Case, but the findings available on the records would show that the driver was driving rashly and negligently. Acquittal of a driver in a Criminal Case may be a relevant factor, but it would not be a decisive factor. A Criminal Case is always decided on the strength of the evidence, wherein a person, who makes allegation, is required to prove the case beyond shadow of doubt or to a reasonable certainty, where no other view, except guilt of such person, is found. In civil matters, the matters are decided on the basis of preponderance of probability. If a Civil Court, despite acquittal of a wrongdoer, by Criminal Court, comes to a conclusion that under the provisions of torts, such wrongdoer is liable, then, the Civil Court is entitled to record such a finding.

5. Being in general agreement with the findings recorded by the learned tribunal and without unnecessarily burdening this judgement by repeating evidence and findings, I hold that the learned tribunal was justified in recording the findings in favour of the claimants.
6. So far as the quantum is concerned, the tribunal has held that the income of the deceased could be Rs.900=00 per month, the tribunal firstly deducted a sum of Rs.100=00 towards expenses of the deceased and after holding that the income could be Rs.800=00 per month, again started applying principles of the unit factors, it awarded two units in favour of breadwinner, two units in favour of widow and one unit each in favour of the minors and mother. The tribunal awarded a sum of Rs.300=00 per month towards maintenance of the widow, who has now remarried and has awarded only a sum of Rs.100=00 per month in favour of other four claimants. In the opinion of this Court, learned tribunal was not unjustified in awarding a bare minimum amount of Rs.100=00 per claimant and did not further err in holding that the dependency could be Rs.4800=00 per year. Looking to the age of the deceased, application of multiplier can not be said to be on the higher side.

7. After considering everything as argued and as available on the records, I hold that the learned tribunal was not unjustified in awarding the amount under dispute in favour of the claimants.
8. The appeal deserves to and is accordingly dismissed interim relief, if any, is vacated. There shall be no orders as to costs.

(R.S. GARG, J.)

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